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**CHAPTER 233****HEALTH PROFESSIONS**

## LIST OF AUTHORISED PAGES

1 – 4	LRO 1/2010
5 – 14	Original
15 – 18	LRO 1/2010
19 – 21	Original

**ARRANGEMENT OF SECTIONS****PART I  
PRELIMINARY**

## SECTION

1. Short title.
2. Interpretation.

**PART II  
THE HEALTH PROFESSIONS COUNCIL**

3. Establishment of Council.
4. Function of the Council.
5. Minister to provide Registrar of Council.
6. Funds of the Council.
7. Accounts and audit.
8. Annual report.
9. Remuneration of members.

**PART III  
REGISTRATION OF MEMBERS OF THE HEALTH  
PROFESSIONS**

10. Establishment and maintenance of a register.
11. Duties of the Council.
12. Qualifications for registration.
13. Licences.
14. Failure to pay annual licence fee.

**PART IV  
DISCIPLINARY PROCEEDINGS**

15. Investigating and disciplinary committees.
16. Suspension or removal from register.
17. Immediate suspension.
18. Restoration to register.
19. Appeals.

**PART V  
MISCELLANEOUS**

20. Regulations.
21. Offences.
22. Performance of health services by students.
23. Possession or control of health appliances or supplies.
24. Power of Government to employ persons in the public service.
25. Privileges of persons registered under this Act.
26. Amendment of First Schedule.

FIRST SCHEDULE

SECOND SCHEDULE — Constitution and Procedure of The Council

THIRD SCHEDULE — The Investigating and Disciplinary Committees

## CHAPTER 233

## HEALTH PROFESSIONS

**An Act to provide for the establishment of a Council for the regulation of health professions, the performance of services by members of those professions and for purposes connected thereto.**

*31 of 1998*  
*SI 79/2001*  
*8 of 2009*

*[Assent 6th August, 1998]*  
*[Commencement 1st May, 2006]*

**PART I**  
**PRELIMINARY**

- Act.
1. This Act may be cited as the Health Professions Act. Short title.
  2. For the purposes of this Act — Interpretation.
    - “Council” means the Health Professions Council established under section 3;
    - “Minister” means the Minister responsible for Health;
    - “health professional” means a person whose name appears on the Health Professionals register;
    - “health profession” means a profession specified in the first column of the First Schedule; First Schedule.
    - “health service or services” means any professional service specified in the second column of the First Schedule as are performed by members of the health professions specified in the first column to that Schedule; First Schedule.
    - “licence” means a licence to practice issued under section 13; and
    - “register” means the Health Professionals register kept by the Council under section 10;
    - “student” means a person in training with a health professional pursuant to section 22.

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**PART II**  
**THE HEALTH PROFESSIONS COUNCIL**

Establishment of  
Council.

**3.** (1) There is hereby established a body to be called the Health Professions Council.

(2) The Council shall be a body corporate with perpetual succession and a common seal, with power to acquire, hold and dispose of land and other property of whatever kind and to sue and be sued.

Second Schedule.

(3) The Second Schedule shall have effect with respect to the constitution and procedure of the Council and otherwise in relation thereto.

Function of the  
Council.

**4.** The Council shall in addition to its duties under section 11, perform the general function of regulating and supervising all health professionals and persons who may assist such health professionals in the performance of their services.

Minister to  
provide Registrar  
of Council.

**5.** The Minister shall appoint a Registrar for the Council who shall perform the functions assigned to the Registrar by or under this Act and such staff, accommodation, services and other facilities as appear to the Minister to be necessary or expedient for the performance of the functions of the Council.

Funds of the  
Council.

**6.** The funds of the Council shall consist of such monies as may be voted by Parliament for the purposes of this Act and such other monies as may be lawfully paid to the Council.

Accounts and  
audit.

**7.** (1) The Council shall keep proper accounts of its receipts, payments, assets and liabilities and such accounts shall be audited annually by an auditor appointed by the Council with the approval of the Minister.

(2) The Council shall cause a copy of the audited statement of accounts to be transmitted to the Minister together with a copy of the report made by the auditor on that statement.

(3) The Minister shall cause a copy of every such statement and report to be laid on the table of both Houses of Parliament.

8. (1) The Council shall, as soon as possible after the expiration of each financial year and in any event not later than the thirtieth day of September in each year, submit to the Minister, a report dealing generally with the activities of the Council during the preceding financial year.

(2) The Minister shall cause a copy of every such report to be laid on the table of both Houses of Parliament. Annual report.

9. There shall be paid from the funds of the Council to the chairman and other members of the Council such remuneration whether by way of honorarium, salary or fees, and such allowances as the Minister may determine. Remuneration of members.

### PART III REGISTRATION OF MEMBERS OF THE HEALTH PROFESSIONS

10. (1) It shall be the duty of the Council to prepare and maintain a register of names, addresses and qualifications and such other particulars as may be prescribed, of all persons who are entitled in accordance with the provisions of this Act to be registered and who apply in the prescribed manner to be so registered. Establishment and maintenance of a register.

(2) The Council shall cause the register to be published in the *Gazette* within nine months after the commencement of this Act and thereafter in each year as soon as practicable after the thirty-first day of January.

(3) In each year after the register is published under subsection (2), the Council shall cause to be published in the *Gazette* as aforesaid a list with any additions or deletions made to the register since it was last published.

(4) The Council shall keep the register open at all reasonable times for inspection by members of the public.

(5) For the purposes of this Act, a person is registered in respect of a health profession, if his name is on the register maintained by the Council under this Act.

11. (1) The duties of the Council are —

(a) to govern, discipline, and regulate the professional conduct of health professionals;

Duties of the Council.

- (b) to register health professionals and to issue licences under section 13;
- (c) to promote and protect the welfare and interest of health professionals;
- (d) to promote the increase of knowledge, skill and proficiency of health professionals;
- (e) to establish standards of qualifications for and to regulate the professional conduct of health professionals who are not entitled to be registered as members.

Qualifications for  
registration

**12.** (1) A person who, after the commencement of this Act, applies to the Council to be registered as a health professional and who satisfies the Council that —

- (a) he can read, write, speak and understand the English language;
- (b) he is qualified to be so registered; and
- (c) he is a fit and proper person to practise as a health professional in The Bahamas,

is entitled, upon compliance with this Act and on payment of the prescribed fee, to be registered under this Act.

(2) For the purposes of subsection (1), a person is qualified to be registered as a health professional if he has not been disqualified or suspended from practising as a health professional whether within or outside The Bahamas and —

- (a) he has passed the prescribed examination set by the Council, or holds a degree, diploma, membership licence, certificate or other status or form of recognition granted by a University, College or body empowered to confer authority to practise any health profession by the law of the country or place where it is granted and which in the opinion of the Council is evidence of satisfactory training in that profession; or
- (b) (i) he satisfies the Council that for a period of not less than twenty years he has acquired practical experience in the particular health profession for which he is applying to be registered; and

- (ii) he satisfies the Council that he is a citizen of The Bahamas or a permanent resident of The Bahamas whose permanent residence certificate permits him to engage in gainful occupation, and that he has been practising in the health profession to which he is applying for registration in The Bahamas for a period of not less than six months immediately prior to the date of the commencement of this Act.

(3) An application for registration under this Act shall be made in the form approved by the Council, and an applicant shall furnish to the Council —

- (a) evidence of his qualifications;
- (b) proof of his identity; and
- (c) such further or other information as the Council requires in respect of the matters specified in paragraphs (a) and (c) of subsection (1).

(4) An application made under this section by a person who is not a citizen of The Bahamas, shall not be granted without evidence of a valid work permit issued under the provisions of the Immigration Act.

Ch 191

(5) A registration under this section shall be known as the first registration, and the fee payable in respect thereof shall be known as the first registration fee.

(6) The Council shall, in respect of the registration of a person under this section, issue to that person a certificate to be called a certificate of registration.

(7) Where the Council refuses to approve the registration of a person under this Act, the Council shall within seven days from the date of such refusal give written notice to the applicant stating the reasons therefor.

**13.** (1) Every person registered under section 12 who desires to practise as a health professional in any year, shall, prior to the first day of January in that year apply to the Council for a licence, and the Council shall on payment of the prescribed fee, issue to him a licence, and every person holding such a licence shall display his licence in a prominent place in his place of practice.

Licences

(2) Where a person registered under this Act on or after the 1st day of January in any year thereafter applies

to the Council for a licence, the Council shall on payment of the fee prescribed under subsection (1) issue to him a licence.

(3) Every licence issued under this section is valid for the year in which it is issued and expires on the 31st day of December of that year.

(4) Every such licence shall be renewed annually upon the application of the holder thereof and the payment of the prescribed fee.

(5) The annual renewal licence fee is payable not later than the 31st day of January in each year.

(6) Where a licence has been lost, destroyed or mutilated it may be replaced by the Council by the issue of a copy thereof upon the application of the holder of the licence and on payment of the prescribed fee.

Failure to pay  
annual licence  
fee

**14.** (1) A person required by section 13 to pay an annual renewal licence fee who fails to pay such fee during the month of January in any year shall, in respect of his licence for that year pay to the Registrar, in addition to the annual licence fee, a sum equal to that fee.

(2) Where a health professional has failed to renew his licence by the 31st day of March, in any year, that health professional shall be deemed not registered for the purposes of this Act until such time as he has complied with subsection (1).

#### **PART IV**

#### **DISCIPLINARY PROCEEDINGS**

Investigating and  
disciplinary  
committees

**15.** (1) The Council shall appoint an investigating committee which shall be charged with the duty of conducting a preliminary investigation into any complaint referred to the investigating committee by the Council where it is alleged that a person registered by the Council is liable to have his name removed from the register.

(2) The Council shall appoint a disciplinary committee which shall be charged with the duty of considering and determining any case referred to it by the Council.

(3) In the conduct of the hearing of a complaint, the disciplinary committee shall ensure —

(a) that adequate notice of the proceedings is given to the individual complained against; and



- (b) that any party to the proceedings may, if he so requires, be heard by the committee either in person or by a counsel and attorney.

(4) The provisions of the Third Schedule to this Act shall have effect with respect to the constitution of the investigating and disciplinary committees. Third Schedule

**16.** (1) If any person registered under this Act is found, upon inquiry by a disciplinary committee — Suspension or removal from register

- (a) to be suffering from any illness rendering him unfit to perform satisfactorily the services in respect of which he is registered; or
- (b) to be guilty of dishonesty, negligence or incompetence in the performance of his functions as a health professional, or of serious professional misconduct;

the Council may, if it thinks fit, either suspend his registration for a period not exceeding one year, direct the Registrar to remove his name from the register or order him to pay a penalty to be forfeited to the Crown not exceeding one thousand dollars.

(2) The Council may direct the Registrar to remove the name of any health professional from the register who has obtained such registration as a result of any misleading, false or fraudulent representation.

(3) For the purposes of paragraph (b) of subsection (1), “serious professional misconduct” means any act or thing done by a person registered under this Act that is contrary to the recognised duty and responsibility of such a person to his patient, or the failure to do any act or thing with respect to a patient in accordance with generally recognised professional ethics, and without limiting the generality of the foregoing includes —

- (a) improper conduct or association with a patient;
- (b) any form of canvassing or promotion either directly or indirectly for the purpose of obtaining patients or promoting his own professional advantage;
- (c) wilful or deliberate betrayal of a professional confidence;

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- (d) abandonment of a patient in danger without sufficient cause and without allowing the patient sufficient opportunity to obtain the services of another health professional;
  - (e) knowingly giving a certificate with respect to the state of health, or with respect to any matter relating to the patient which the health professional knows or ought to know is untrue, misleading or otherwise improper;
  - (f) the abuse of intoxicating liquor or drugs;
  - (g) the impersonation of another health professional;
  - (h) association with unqualified or unregistered persons whereby such persons are enabled to practise as health professionals;
  - (i) the holding out directly or indirectly by a health professional to the public that he is specially qualified in a particular discipline unless he has taken a special course in that discipline and such special qualification has been registered in accordance with the provisions of this Act;
  - (j) any wilful or negligent misrepresentation as to the curative efficacy possessed by a drug or any other substance, treatment or procedure whether inherently or by administration or application thereof;
  - (k) knowingly treating a patient other than in a case of emergency while suffering from a mental or physical condition or while under the influence of alcohol or drugs to such an extent as to constitute a danger to the public or a patient;
  - (l) the doing of or failure to do any act or thing in connection with his professional practice, which is in the opinion of the Council unprofessional or discreditable; and
  - (m) a conviction of any indictable offence.
- (4) Where the Council suspends the registration of a health professional or directs the Registrar to remove the name of any person from the register, the Council shall immediately give written notice to the person affected by that suspension or direction.

(5) Where the name of any person is removed from the register, the Council may, in writing, require that person to return to the Registrar his licence and that person shall comply with that requirement.

(6) The Registrar shall, within 21 days after the Council suspends the registration of a health professional or directs his name to be removed from the register, cause a notice thereof to be published in the *Gazette*.

(7) Failure of the Registrar to publish a notice in accordance with subsection (6) shall not affect the validity of the suspension of registration, the removal of the licensee's name from the register or the restoration to the register of a person's name.

17. (1) On making an order for removal or an order for suspension in respect of any person under section 16 the Council, if satisfied that to do so is necessary for the protection of members of the public or would be in the best interest of that person, may order that this registration be suspended forthwith in accordance with this section.

Immediate  
suspension

(2) Notwithstanding subsection (1), if in the opinion of the Council it is inexpedient or dangerous or against the public interest or not in the interest of the health of a patient that a person who is registered under this Act should continue to perform the services pending an inquiry under section 15, the Council may suspend the registration of that person until the determination of that inquiry.

(3) The Supreme Court may terminate any suspension of a person's registration in the register which has effect by virtue of subsection (2), and the decision of the court on any application under this subsection shall be final.

18. (1) The Council may at any time, upon application being made by any person whose name has been removed from the register or whose registration has been suspended, determine, if it thinks fit, that such person's name be restored to the register or, as the case may be that his suspension cease with effect from such date as the Council may appoint, and shall forthwith give notice of any such determination to the Registrar.

Restoration to  
register

(2) On receipt of notice of a determination made by the Council under subsection (1) in relation to any person, the Registrar shall forthwith cause the name of that person to be restored to the register or, as the case may be, cause a

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note of cessation of the suspension to be entered therein, and in either case shall cause notice of the determination of the Council to be published in the *Gazette*.

Appeals

**19.** (1) Subject to subsections (3) and (4), any person aggrieved by —

- (a) the failure or refusal of the Council to register him under this Act;
- (b) a decision of the Council under section 15 in relation to an investigation by a disciplinary committee,

Ch 52

may appeal in respect thereof to the Court of Appeal, and in relation to every such appeal section 10 of the Court of Appeal Act shall apply *mutatis mutandis* as if the matter in respect of which the appeal is brought were a judgment or order of the Supreme Court.

(2) No further appeal shall lie from the decision of the Court of Appeal.

(3) The Council may, pending an appeal under subsection (1), by any person aggrieved by a decision of the Council on the application of that person suspend the operation of any such decision until the determination of the appeal.

(4) Notwithstanding subsection (1), no appeal shall lie under this section against refusal of an application for registration in a case in which such registration is conditional upon the applicant's satisfying the Council that he is qualified to be registered.

## PART V MISCELLANEOUS

Regulations

**20.** (1) The Minister may, after consultation with the Council, make regulations —

- (a) with respect to the form and keeping of the register and the making of entries, alterations and corrections therein;
- (b) for prescribing fees to be paid in respect of the entry or retention of names on the register;
- (c) for the determination of professional conduct and general fitness to practise as a health professional or to perform health services;

- (d) prescribing the manner in which investigations or disciplinary proceedings in relation to any charge under section 15 may be instituted and conducted and for matters incidental to such proceedings;
  - (e) prescribing the functions to be performed or services to be provided by a health professional;
  - (f) providing for the approval of the establishment, maintenance and policy of schools or training centres for the education and training of persons desiring to be trained in any health profession;
  - (g) respecting the formation of special boards or committees for any health profession and to provide for the functions of members of such boards or committees in order that the highest standards of qualification may be achieved;
  - (h) prescribing the persons or categories of persons, and the conduct of such persons who may assist health professionals in the performance of their services specifying the functions of the persons so prescribed and the nature of the health services which may be performed by them;
  - (i) prescribing the fees payable for examinations, and licensing under this Act;
  - (j) prescribing anything authorised or required to be prescribed by this Act.
- (2) Regulations made under this section may contain different provisions in relation to each health profession.

**21.** (1) Any person registered under this Act who — Offences

- (a) performs health services other than those in respect of which he is registered; or
- (b) practises as a health professional without first obtaining a licence,

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars and to a further fine not exceeding five hundred dollars for every day or part thereof during which the offence continues after conviction therefor.

- (2) Any person, not being a health professional who —
  - (a) assumes or uses any name, title, addition or description implying that he is entitled to be

‘recognised as a person authorised or qualified to practise as a health professional; or

(b) advertises or holds himself out as a person authorised or qualified to practise as a health professional; or

(c) practises as a health professional,

commits an offence and is liable on summary conviction in the case of a first offence to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or to both that fine and imprisonment, and in the case of a subsequent offence to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding twelve months or to both that fine and imprisonment.

(3) Any person who, for the purpose of procuring or attempting to procure the registration under this Act of himself or of any other person as a health professional, makes or produces or causes to be made or produced any fraudulent representation or declaration either verbally, in writing or otherwise commits an offence and is liable on summary conviction in the case of a first offence to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or to both that fine and imprisonment, and in the case of a subsequent offence to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding twelve months or to both that fine and imprisonment.

Performance of  
health services  
by students

**22.** Nothing in this Act prevents the performance of health services by a person in training leading to a health profession therein if those services are performed under the direct supervision and control of a health professional registered in that health profession.

Possession or  
control of health  
appliances or  
supplies

**23.** (1) Subject to subsection (3), a person who for the purpose of practising as a health professional has in his possession or control health appliances or supplies commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or both.

(2) For the purposes of subsection (1), possession or control of health appliances or supplies by a person is *prima facie* evidence that the possession or control is for the purpose of practising as a health professional.

(3) Subsection (1) does not apply to the possession or control of health appliances or supplies by —

- (a) a person registered under this Act;
- (b) a person dealing in health appliances or supplies;
- (c) a person who is in possession or control of the health appliance or supply for his own personal use; or
- (d) a person permitted by the Council to have such possession or control.

(4) A magistrate who is satisfied upon information on oath that there are reasonable grounds for believing that there are in any building or premises, health appliances, supplies or other devices which will afford evidence as to the commission of an offence under this section, may issue a warrant under his hand authorising any police officer named in the warrant to enter and search the building or premises and to seize such health appliances, supplies or other devices.

(5) The provisions of section 70 of the Criminal Procedure Code Act, shall apply to a search warrant issued under subsection (4) as they apply to a search warrant issued under that section.

Ch. 91.

**24.** Notwithstanding anything in this Act, the Government may, if it thinks fit, employ any health professional in the public service if in the opinion of the Chief Medical Officer such person possesses qualifications which would entitle him to be registered under this Act, and the Council shall register such person accordingly.

Power of Government to employ persons in the public service.

**25.** No person shall be entitled to recover in any court of law any charge for professional services rendered or appliances or supplies provided by him in the practice of a health profession unless he proves that at the time in question he was registered under this Act and had a licence issued to him authorising him to do the act or thing for which the charge was made.

Privileges of persons registered under this Act.

**26.** The Minister may by order amend the First Schedule.

Amendment of First Schedule.

*SI 79/2001*  
*8 of 2009*

### FIRST SCHEDULE (Section 2)

<b>Health Profession</b>	<b>Authorized Health Services</b>
<b>Acupuncture Therapy</b> Acupuncturist	the authorized health services referred to in regulation 7 of Part II of the Health Professions Regulations, 2000,
<b>Audiology and Speech Language Pathology</b>	
(a) Audiologist	the authorized health services referred to in regulation 10(1) of Part III of the Health Professions Regulations, 2000,
(b) Speech Language Pathologist	the authorized health services referred to in regulation 10(2) of Part III of the Health Professions Regulations, 2000,
<b>Chiropody and Podiatry</b>	
(a) Chiropodist	the authorized health services referred to in regulation 13(1) of Part IV of the Health Professions Regulations, 2000,
(b) Podiatrist	the authorized health services referred to in regulation 13(2) of Part IV of the Health Professions Regulations, 2000,
<b>Chiropractic Therapy</b> Chiropractor	the authorized health services referred to in regulation 16 of Part V of the Health Professions Regulations, 2000,
<b>Clinical Psychology</b> Clinical Psychologist	the authorized health services referred to in regulation 19 of Part VI of the Health Professions Regulations, 2000,
<b>Dietetics</b>	
(a) Dietitian or Nutritionist	the authorized health services referred to in regulation 22(1) of Part VII of the Health Professions Regulations, 2000,
(b) Dietary Technician	the authorized health services referred to in regulation 22(2) of Part VII of the Health Professions Regulations, 2000,
<b>Emergency Services Technology</b>	
(a) Emergency services technician basic	the authorized health services referred to in regulation 26(1) of Part VIII of the Health Professions Regulations, 2000,
(b) Emergency services technician intermediate	the authorized health services referred to in regulation 26(2) of Part VIII of the Health Professions Regulations, 2000,
(c) Emergency services technician advanced	the authorized health services referred to in regulation 26(3) of Part VIII of the Health Professions Regulations, 2000,
<b>Medical Laboratory Technology</b>	
(a) Medical Laboratory Technologist	the authorized health services referred to in regulation 31(1), (2) and (3) of Part IX of the Health Professions Regulations, 2000,



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<b>Health Profession</b>	<b>Authorized Health Services</b>
(b) Medical Laboratory Technician	the authorized health services referred to in subsections 31(1), (2) and (4) of Part IX of the Health Professions Regulations, 2000,
<b>Occupational Therapy</b>	
(a) Occupational Therapist	the authorized health services referred to in regulation 34(1) of Part X of the Health Professions Regulations, 2000,
(b) Occupational Therapist Assistant	the authorized health services referred to in regulation 34(2) of Part X of the Health Professions Regulations, 2000,
<b>Optometry and Opticianary</b>	
(a) Optometrist	the authorized health services referred to in regulation 37(1) of the Part XI of the Health Professions Regulations, 2000,
(b) Optician	the authorized health services referred to in regulation 37(2) of Part XI of the Health Professions Regulations, 2000,
<b>Physiotherapy and Respiratory Therapy</b>	
(a) Physiotherapist	the authorized health services referred to in regulation 43(1) of Part XIII of the Health Professions Regulations, 2000,
(b) Physiotherapy Assistant	the authorized health services referred to in regulations 43(2) of Part XIII of the Health Professions Regulations, 2000,
(c) Respiratory Therapist	the authorized health services referred to in regulation 43(3) and (4) of Part XIII of the Health Professions Regulations, 2000,
<b>Radiography</b>	
(a) Radiographer	the authorized health services referred to in regulation 46(1) of Part XIV of the Health Professions Regulations, 2000,
(b) X-ray Technician	the authorized health services referred to in regulation 46(2) of Part XIV of the Health Professions Regulations, 2000,
(c) Ultra Sound Technologist or Sono-grapher	the authorized health services referred to in regulation 46(3) of Part XIV of the Health Professions Regulations, 2000,
(d) Nuclear Medicine Technologist	the authorized health services referred to in regulation 46(4) of Part XIV of the Health Professions Regulations, 2000

**SECOND SCHEDULE (Section 3)****CONSTITUTION AND PROCEDURE OF THE COUNCIL**

Constitutional  
and procedure of  
the Council.

- 1.** The Council shall consist of eleven members, of whom —
- (a) one shall be the Chief Medical Officer;
  - (b) three shall be appointed by the Minister acting in accordance with the advice of the Associations representing Pharmacists, Medical Technologists, Optometrists and Opticians;
  - (c) six shall be appointed by the Minister, one of whom shall include a representative from the other health professions, registered under this Act, not mentioned in paragraph (b), and the other five shall be persons qualified as having had experience of or having shown capacity in matters relating to medical related services, industry, commerce, finance, law or administration;
  - (d) one member of the public appointed by the Minister.

Tenure of Office.

**2.** (1) A member of the Council other than the Chief Medical Officer shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years, and shall be eligible for re-appointment.

(2) Notwithstanding subparagraph (1) of this paragraph, no member of the Council other than the Chief Medical Officer shall hold office for more than two consecutive terms, but such member is eligible for re-appointment after the expiration of one year thereafter.

Chairman.

**3.** (1) The Minister shall appoint one of the members from subparagraph (c) of paragraph 1 to be chairman for a term not exceeding two years.

(2) The Council shall elect from among its members a deputy chairman for a term not exceeding two years and such person shall be eligible for re-election.

(3) The chairman shall preside at all meetings of the Council at which he is present and in his absence the deputy chairman shall preside.

Resignation.

**4.** Any member of the Council may at any time resign his office by instrument in writing addressed to the Minister, and from the receipt by the Minister of such instrument such member shall cease to be a member of the Council.

Dismissal.

**5.** (1) The Minister may at any time revoke the appointment of any member of the Council.

(2) Prior to the revocation of the appointment of a member appointed under subparagraph (b) of paragraph 1 of this Schedule, the Minister shall consult the Association about the revocation.

6. (1) If any vacancy occurs in the membership of the Council, such vacancy, shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so, however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

Vacancies and acting appointments.

(2) If the Minister is satisfied that the chairman or any other member of the Council is unable to act, the Minister shall appoint any person to act in place of that member, so, however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the member replaced.

7. The names of all members of the Council as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Gazetting of appointments.

8. (1) The seal of the Council shall be kept in the custody of the chairman or the Registrar and shall be affixed to instruments pursuant to a resolution of the Council in the presence of the chairman or any other member of the Council and the Registrar.

Seals, etc.

(2) The seal of the Council shall be authenticated by the signature of the chairman and any other member authorised to act in that behalf and the Registrar, and the seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Council may be signified under the hands of the chairman or any other member authorized to act in that behalf, and the Registrar.

9. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

Interest of member.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the meeting of the Council and that member shall not, unless the Council otherwise determines —

- (a) be present during any deliberation of the Council with respect to that matter; or
- (b) take part in any decision of the Council with respect to that matter.

(3) For the purpose of the making of a determination by the Council under subparagraph (2) in relation to a member who has made a disclosure under subparagraph (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not —

- (a) be present during any deliberation of the Council for the purpose of making the determination; or
- (b) take part in the making by the Council of the determination.

Procedures of meetings

**10.** (1) The Council shall meet as often as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Council may determine.

(2) The chairman may at any time call a special meeting of the Council and shall call a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any four members of the Council.

(3) The chairman shall preside at all meetings of the Council at which he is present and, in the case of the chairman's absence from any meeting the deputy chairman shall preside. If both the chairman and the deputy chairman are absent the members present constituting a quorum shall elect a chairman from among their number to preside at that meeting.

(4) Six members of the Council shall form a quorum.

(5) The decisions of the Council shall be by a majority of votes, and, in addition to an original vote the chairman or other person presiding at the meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting shall be kept by the Council.

(7) Subject to the provisions of this Schedule the Council may regulate its own proceedings.

Validity of decisions of Council

**11.** No decision or act of the Council or act done under the authority of the Council shall be invalid by reason of the fact that —

- (a) the full number of members for which provision is made in paragraph 1 of this Schedule was not appointed or there was a vacancy or vacancies amongst such members; or
- (b) a disqualified person acted as a member of the Council at the time the decision was taken or the act was done or authorized.

if the decision was taken or the act was done or authorized by a majority vote of the persons who at the time were entitled to act as members.

Committees

**12.** The Council may appoint such committees as it may think fit and may delegate to any such committee the power and authority to carry out on its behalf such duties as the Council may determine.

**13.** (1) No member of the Council shall be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of the operations of the Council. Protection of members.

(2) Where any member of the Council is exempt from liability by reason only of the provisions of this paragraph, the Council shall be liable to the extent that it would be if the member was a servant or agent of the Council.

### **THIRD SCHEDULE (Section 15)**

#### **THE INVESTIGATING AND DISCIPLINARY COMMITTEES**

**1.** (1) A disciplinary committee shall consist of not less than three members each selected by the Council including a registered health professional from the same health profession as the individual complained against, and a judge or an attorney of at least ten years experience. Constitution of the Committees.

(2) An investigating committee shall consist of not less than three members each selected by the Council from among registered health professionals one of whom shall be from the same health profession as the individual complained against.

(3) No person who acted as a member of an investigating committee with respect to any case shall be eligible for appointment as a member of the disciplinary committee with respect to that case.

**2.** For the purpose of any proceedings, a disciplinary committee, has the power of summoning before it any witnesses and requiring them to give evidence on oath, or on solemn affirmation if they are persons entitled to affirm in civil matters, and to produce such documents and things as the disciplinary committee deems requisite. Procedure of the Committees.

**3.** On the hearing of a complaint the disciplinary committee shall take the recommendations to the Council and the Council may either dismiss the complaint or make such order of a disciplinary nature as it thinks fit. Hearing of a complaint.

**4.** The disciplinary committee may order payment, by any party to the proceedings, of cost or of such sum as the Committee may consider a reasonable contribution towards the cost incurred in connection with those proceedings. Payment of cost.